

Message

From: Strauss, Linda [Strauss.Linda@epa.gov]
Sent: 10/19/2018 5:48:01 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]
CC: Henry, Tala [Henry.Tala@epa.gov]; Dunton, Cheryl [Dunton.Cheryl@epa.gov]; Hanley, Mary [Hanley.Mary@epa.gov]
Subject: Fwd: ACTION: The Intercept (Sharon Lerner) re follow-up on PFAS

Nancy/Charlotte/Erik - awareness that this came in.

Also, your thoughts on Tala's Q below on how much we want to respond?

Sent from my iPhone

Begin forwarded message:

From: "Henry, Tala" <Henry.Tala@epa.gov>
Date: October 19, 2018 at 1:22:55 PM EDT
To: "Strauss, Linda" <Strauss.Linda@epa.gov>, "Pierce, Alison" <Pierce.Alison@epa.gov>, "Ortiz, Julia" <Ortiz.Julia@epa.gov>, "Blair, Susanna" <Blair.Susanna@epa.gov>, "Scheifele, Hans" <Scheifele.Hans@epa.gov>, "Dunton, Cheryl" <Dunton.Cheryl@epa.gov>
Subject: RE: ACTION: The Intercept (Sharon Lerner) re follow-up on PFAS

Can we get 'read' from OCSPP as to whether they want us responding the "interview" {aka EDF} points ... given the ongoing litigation etc. around CBI?

Tala R. Henry, Ph.D.
Acting Deputy Director
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency

T: 202-564-2959
E: henry.tala@epa.gov

From: Strauss, Linda
Sent: Friday, October 19, 2018 1:02 PM
To: Pierce, Alison <Pierce.Alison@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Blair, Susanna <Blair.Susanna@epa.gov>; Scheifele, Hans <Scheifele.Hans@epa.gov>; Henry, Tala <Henry.Tala@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>
Subject: RE: ACTION: The Intercept (Sharon Lerner) re follow-up on PFAS

Adding Tala, Susana, Hans to get this started since not sure who was working on this, Alison and Julia are out, and the DDL is Mon.

From: Jones, Enesta
Sent: Friday, October 19, 2018 12:56 PM
To: Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>
Cc: Jones, Enesta <Jones.Enesta@epa.gov>
Subject: ACTION: The Intercept (Sharon Lerner) re follow-up on PFAS

Hi All, Sharon Lerner sent another request She said her DDL is EOD, Oct. 22.

I'm finishing up my piece and thought I'd check back to see if you were able to get clarification on any of what I sent. Also, please add the following question to the list of points I'd like clarified.
You wrote the following to me in your initial response:

- EPA notes that PFASs claimed CBI may not always be readily apparent as PFASs on the inventory.

My question is: does this mean that they're not readily apparent to folks at EPA? And does that mean that the number of CBI PFAS on the inventory - 396, according to your response, may be an undercount because they may have missed some of the CBI PFAS? Or does it mean that the CBI PFAS might not be readily apparent to people outside the agency and therefore that 396 is a firm number?

Also, I'm listing below several points that have been raised in interviews that EPA may want to respond to:

ON PMN FILES that were reviewed by the Environmental Defense Fund:

"The information we got back was spotty, almost everything claimed confidential. With the vast majority of new chemicals, the identity of the chemical is claimed CBI but so is the great majority of the other information the company submits - the manufacturing process, how many sites the chemical is being processed at, worker exposure."

"Even health information, which is not allowed to be kept confidential, was missing. You'd see in attachment list that there's a 78-page study. And, in file, there was a document labeled 'acute toxicity in mice,' but when you opened it up, it was just one blank page. Someone had made the decision to redact that study even though it's a health study and it's not eligible to be redacted."

"We see massive levels of redaction with no substantiation or insufficient substantiation and no evidence that EPA has reviewed any of those claims"

"During the first year [after the TSCA reauthorization went into effect], between 60 and 80 percent of new chemicals were having some kind of restriction, testing requirements, limits on production or use put on them. EPA often was flagging those chemicals for the first year after law passed as having insufficient information that might result in a consent order. But that's all going away now."

Finally, EPA may want to address one of the overarching points of this piece, which is that EPA has allowed new PFAS onto the market even since it's learned of the environmental and health dangers these substances pose and as EPA has been working to find and address the environmental contamination caused by PFAS.

From: Jones, Enesta

Sent: Monday, October 15, 2018 7:52 PM

To: Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>

Cc: Jones, Enesta <Jones.Enesta@epa.gov>

Subject: ACTION: The Intercept re follow-up on PFAS

Hi All, she sent another clarifying question:

I want to clarify that, when you say:

"722 perfluorinated substances have been reviewed **via** the New Chemicals Program in Low Volume Exemption Notices"

that those 722 PFAS are not counted in the TSCA inventory. Is that correct?

On Oct 12, 2018, at 10:37 AM, Dunton, Cheryl <Dunton.Cheryl@epa.gov> wrote:

I'd go with Tuesday or Wednesday to be safe. Folks are out today so we won't be able to really dig in until Monday. Thanks.

On Oct 12, 2018, at 10:32 AM, Jones, Enesta <Jones.Enesta@epa.gov> wrote:

No problem. Should we say Monday or will you need longer?

On Oct 12, 2018, at 10:31 AM, Dunton, Cheryl <Dunton.Cheryl@epa.gov> wrote:

Enesta – we'll need until next week on these. Not something we can get answered today (especially when she keeps coming back with more and more questions). Thanks.

From: Jones, Enesta

Sent: Friday, October 12, 2018 10:29 AM

To: Dunton, Cheryl <Dunton.Cheryl@epa.gov>

Cc: Pierce, Alison <Pierce.Alison@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>

Subject: Re: ACTION: The Intercept re follow-up on PFAS

And more:

Also, just confirming that when you identified 396 as "CBI PFAS," that means that some of the information about them — whether their identity and/or the quantity produced and their purpose — are withheld as confidential business information. Do manufacturers of CBI PFAS have to make public any information about these chemicals? And is this designation time-sensitive? Or does it last indefinitely?

+++

Hi All,

She's back with another question:

What efforts does EPA undertake to ensure that chemicals that enter commerce through the Low Volume Exemption are in fact produced in quantities < 10,000 kg per year?

On Oct 11, 2018, at 9:56 AM, Dunton, Cheryl <Dunton.Cheryl@epa.gov> wrote:

Alison/Julia correct me if I'm wrong.

No, that's not accurate. They are really two separate things that happen to overlap. CDR is a rule under TSCA that requires manufacturers (including importers) to provide EPA with information on the production and use of chemicals in commerce in large quantities. You have to meet certain production volume thresholds in order to report. It

just so happens that chemicals reported under CDR are also on the inventory. CDR doesn't have anything to do with making additions to or deletions from the inventory.

Hope that helps.

From: Jones, Enesta
Sent: Thursday, October 11, 2018 9:47 AM
To: Dunton, Cheryl <Dunton.Cheryl@epa.gov>
Cc: Pierce, Alison <Pierce.Alison@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>
Subject: RE: ACTION: The Intercept re follow-up on PFAS

Cheryl,
So is it accurate to say that the CDR is a subpart of the TSCA inventory?

From: Dunton, Cheryl
Sent: Thursday, October 11, 2018 9:38 AM
To: Jones, Enesta <Jones.Enesta@epa.gov>
Cc: Pierce, Alison <Pierce.Alison@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>
Subject: RE: ACTION: The Intercept re follow-up on PFAS

Yes I agree.

From: Jones, Enesta
Sent: Thursday, October 11, 2018 9:37 AM
To: Dunton, Cheryl <Dunton.Cheryl@epa.gov>
Cc: Pierce, Alison <Pierce.Alison@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>
Subject: Re: ACTION: The Intercept re follow-up on PFAS

Tnx Linda. This is all public info so I don't think OCSPP management approval is warranted. Do you agree?

On Oct 11, 2018, at 9:33 AM, Dunton, Cheryl <Dunton.Cheryl@epa.gov> wrote:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Jones, Enesta

Sent: Thursday, October 11, 2018 8:55 AM

To: Pierce, Alison <Pierce.Alison@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>

Cc: Strauss, Linda <Strauss.Linda@epa.gov>; Jones, Enesta <Jones.Enesta@epa.gov>

Subject: ACTION: The Intercept re follow-up on PFAS

Hi All,

The reporter has returned with two clarifying questions. Pls see below:

- 1) When you say the inventory update is October 5th, do you mean that a new one is out? If so, can you point me to the data?
- 2) Can you please explain the different between the TSCA inventory and the CDR?

On Oct 10, 2018, at 5:58 PM, Strauss, Linda <Strauss.Linda@epa.gov> wrote:

Here you go, Enesta.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Jones, Enesta

Sent: Friday, September 21, 2018 9:40 AM

To: Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>

Cc: Jones, Enesta <Jones.Enesta@epa.gov>

Subject: RE: ACTION: The Intercept re follow-up on PFAS

EOD is fine, she says.

She added this one:

I had asked whether some of the 672 PFAS on the inventory that did not come through the PMN process might have entered the inventory through low volume exemptions or some other exemptions. And then I asked to get a breakdown by year. I want to be clear that, if some of the PFAS did in fact get LVE or other exemptions, I'd like to know HOW MANY may have gotten those exemptions as part of the breakdown by year they entered the inventory.

From: Jones, Enesta

Sent: Friday, September 21, 2018 9:02 AM

To: Strauss, Linda <Strauss.Linda@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>

Cc: Jones, Enesta <Jones.Enesta@epa.gov>

Subject: RE: ACTION: The Intercept re follow-up on PFAS

All, she added two questions.

For the PFAS that aren't active, what does that mean exactly? Were they never active? Or were they active and then subsequently withdrawn?

According to the information you provided below, there are 43 CBI PFAS that didn't go through new chemicals program. How did those PFAS get on inventory? Did they predate TSCA because they've been in commerce since 1976? If so, why would their names still be CBI? Or did they get on the inventory some other way? And, if so, how did they get on the inventory?

From: Jones, Enesta

Sent: Monday, September 17, 2018 5:38 PM

To: Strauss, Linda <Strauss.Linda@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>

Cc: Jones, Enesta <Jones.Enesta@epa.gov>

Subject: ACTION: The Intercept re follow-up on PFAS

Hi All, the reporter — Sharon Lerner — has returned with follow-up that is due at noon on Sept. 21.

DDL is noon on 9/21.

1) I know that the chemical inventory has been in the process of being updated. Do these numbers reflect the fully updated inventory? Or is that process still underway and thus could these numbers soon be bigger once the inventory is completed?

2) During what period of time were the 907 PFAS you mention received and reviewed by the New Chemicals Program? Can you please break them down by year?

3) If I'm understanding you correctly, there are 672 PFAS on the inventory that did not come through the PMN process. Am I right to assume that that means that they entered the inventory through low volume exemptions or some other exemptions? If not, how did they get on the inventory? And can I get a breakdown by year of when those PFAS entered the inventory?

From: "Strauss, Linda" <Strauss.Linda@epa.gov>

Date: August 14, 2018 at 8:05:52 AM EDT

To: "Daguillard, Robert" <Daguillard.Robert@epa.gov>, "Jones, Enesta" <Jones.Enesta@epa.gov>

Cc: "Ortiz, Julia" <Ortiz.Julia@epa.gov>, "Pierce, Alison" <Pierce.Alison@epa.gov>, "Dunton, Cheryl" <Dunton.Cheryl@epa.gov>, "Parsons, Doug" <Parsons.Douglas@epa.gov>

Subject: FW: ACTION: The Intercept re PFAS

And this one.

Deliberative Process / Ex. 5

From: Jones, Enesta
Sent: Friday, August 03, 2018 11:15 AM
To: Strauss, Linda <Strauss.Linda@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Ortiz, Julia <Ortiz.Julia@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>
Cc: Jones, Enesta <Jones.Enesta@epa.gov>
Subject: ACTION: The Intercept re PFAS

All,

Reporter: Sharon Lerner
DDL: 8/10, noon

On EPA's website --<https://www.epa.gov/pfas/pfas-laws-and-regulations> — it says that there are 478 PFAS on the TSCA Inventory (though the inventory is still “interim” due to inventory reset), 294 of which have been added to the inventory since 2006.

In particular, it says: **330** non-CBI PFAS are listed on the Interim Updated TSCA Inventory. In addition, **148** CBI PFAS are reported.

But at the recent PFAS Summit, Jeff Morris, director of OPPT, reported that “[n]early 900 new PFAS chemicals have come through EPA's TSCA program since 2006.” <https://www.epa.gov/pfas/pfas-national-leadership-summit-materials>

Can you please help me understand this discrepancy? In particular, he says that 900 new PFAS “came through” the TSCA program. Yet the website indicates that only 294 PFAS have been added to the inventory since 2006. What happened to the other 606 PFAS that “came through” the program if they weren't added to the TSCA inventory? Were they exempted for some reason? Did EPA refuse to approve them for distribution in commerce?